

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

LARRY JOHNSON,

Plaintiff,

v.

THOMAS BRENNEKE; GARRETT
LAMAR MILES; GUARDIAN
MANAGEMENT, LLC; GUARDIAN
REAL ESTATE SERVICES; UPTOWN
TOWER APARTMENTS; LISA
SIMONSON; KELLY PAINE; and
SUNSHINE SALES,

Defendants.

No. 3:21-cv-00582-JR
(Lead Case)

No. 3:21-cv-00685-JR
No. 3:21-cv-00871-JR
(Trailing Cases)

ORDER

RUSSO, Magistrate Judge:

The District Court entered a judgment in favor of defendants and dismissed this action on August 5, 2022. Defendants filed a motion seeking attorney fees on August 8, 2022. On August 19, 2022, plaintiff requested a stay and submitted a statement from his physician assistant indicating postponement of further proceedings in this case is necessary while plaintiff undergoes treatment. The Court ordered plaintiff to submit a statement from his doctor indicating how much time was needed so that a new briefing schedule could be set on the attorney fee motion. Plaintiff has not responded with a statement from his doctor.

In a second group of cases also filed by plaintiff, he also submitted a request for stay of proceedings and attached an unsworn statement from his physician assistant. The provider indicates

plaintiff has “episodic flare-ups” resulting in “incapacity” “one to three times per week or month” which will last through November 2023.¹ Plaintiff also attaches a statement from his therapist opining that a postponement of the litigation process is “strongly advised.” See ECF [59](#) in Case No. 3:21-cv-947 (Lead).² Out of an abundance of caution, the Court extends the time to respond to the attorney fee motion.

Given that there are at least some periods in which plaintiff does not suffer from incapacity during the week or month, the Court finds that an extension of an additional 90 days from November 10, 2022, is a sufficient extension of time. Accordingly, plaintiff’s response to defendants’ motion for attorney fees (ECF [119](#)) is due February 8, 2023. Defendants have until February 22, 2023, to file any reply and the motion will be taken under advisement on February 27, 2023. Plaintiff is warned that absent a sworn declaration from his medical doctor clearly indicating that plaintiff’s condition prevents him from responding, no further extensions will be granted.

CONCLUSION

Plaintiff’s request for a stay is granted to the extent that plaintiff’s response to defendants’ motion for attorney fees (ECF [119](#)) is due February 8, 2023. Defendants then have until February 22, 2023, to file any reply and the motion will be taken under advisement on February 27, 2023.

DATED this 14th day of November, 2022.

/s/ Jolie A. Russo
Jolie A. Russo
United States Magistrate Judge

¹ The opinion is unclear as to duration of incapacity as it indicates a frequency of 1-3 times with a check mark next to week and another checkmark next to month. The duration is listed as 24 hours or 30 days per episode.

² Plaintiff also requests appointment of counsel. That request is denied for the reasons already stated in the record. In addition, plaintiff suggests his illness provides a basis for relief from the judgment under Fed. R. Civ. P. 60(b). Plaintiff has not formally moved for relief from the judgment and defendants have not had an opportunity to respond. Accordingly, the request is denied without prejudice.